REMARKS

This Application has been carefully reviewed in light of the Final Office Action dated October 31, 2007 ("*Office Action*"). In the Office Action, Claims 1-3, 5-8, 10-30, 32, 33, and 35-37 are pending and rejected. Applicants amend Claims 7, 10, 15, 18, 22, 26, 30, 32, and 37. Applicants cancel Claim 12 and add new Claim 38. Applicants respectfully request reconsideration and favorable action in this case.

Section 103 Rejections

The Office Action rejects Claims 1-6, 10-16, and 35-36 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,799,273 issued to Mitchell et al. ("*Mitchell*") in view of U.S. Patent No. 6,240,391 issued to Ball et al. ("*Ball*"). The *Office Action* rejects Claims 7-8, 17, 30, and 32-33 under 35 U.S.C. § 103(a) as being unpatentable over *Mitchell* in view of *Ball* and further in view of U.S. Patent No. 6,068,487 issued to Dionne ("*Dionne*") and U.S. Patent No. 6,424,357 issued to Frulla et al. ("*Frulla*"). The *Office Action* rejects Claims 18-29 and 37 under 35 U.S.C. § 103(a) as being unpatentable over *Mitchell* in view of *Dionne* and *Frulla*. For the reasons described below, Applicants respectfully request reconsideration and allowance of Claims 1-8, 10-33, and 35-37.

A. The Proposed Combinations are Improper

First, it continues to be Applicants' position that one of ordinary skill in the art would not have been motivated to combine the disclosure of *Mitchell* with those of *Ball*, *Dionne*, and *Frulla*. Accordingly, Applicants refer the Examiner to pages 11-18 of the previous Response to Office Action submitted on August 21, 2007, for a detailed discussion of the impropriety of the *Mitchell-Ball*, *Mitchell-Ball-Dionne*, and *Mitchell-Ball-Frulla* combinations. Although Applicants continue to believe Applicants' arguments have merit, for the purposes of brevity, Applicants do not reproduce those arguments here.

B. The Claims are Allowable over the Proposed Combinations

Second, Applicants respectfully submit that the proposed combinations of references do not disclose, teach, or suggest the elements recited in Applicants' claims.

1. Claims 1-3, 5-6, and 35-36[1]

It continues to be Applicants' position that the proposed *Mitchell-Ball* combination does not disclose, teach, or suggest "a plurality of electronic markers embedded in the file," as recited in independent Claims 1 and 35.

The Office Action concedes that *Mitchell* does not disclose this limitation. (*Office Action*, page 2). Instead, the Examiner alleges that "it would have been obvious to one of ordinary skill at the time of the invention to provide for the electronic marker embedded in the audio file . . . so as to aid the user in reviewing the text as the audio is input," but this is incorrect. Applicants respectfully submit, however, that the Examiner's summary conclusion amounts to mere speculation and does not provide the suggestion or motivation necessary to make the proposed modification.[2] The Examiner has not pointed to any portions of the cited references that would teach, suggest, or motivate one of ordinary skill in the art at the time of the invention to incorporate the electronic markers in the audio file of *Mitchell*. Applicants submit that it would not have been obvious to one of ordinary skill in the art at the time of the invention to even attempt to, let alone to actually, modify *Mitchell* with the electronic markers in the audio file. *Mitchell* is limited to a speech recognition engine that is used in data processing. (*Mitchell*, Column 1, lines 8-10). The principle and purpose of the speech recognition engine disclosed in *Mitchell* is to replay audio files to help a user perform proofreading functions. (*Mitchell*, Column 1, lines 59-67). *Mitchell*, however, in no way provides any suggestion as to how including electronic markers in the audio files would be advantageous in performing proofreading functions.

In addition, *Mitchell* is already capable of storing audio start points and audio end points in a separate table to facilitate the retrieval and playback of a certain audio segment. (*Mitchell*,

---

[1] Claim 4 was cancelled in the Response to Office Action submitted on October 12, 2006.

[2] If the Examiner is relying on "common knowledge" or "well known" art in support of his rationale for modifying *Mitchell*, the Examiner is requested to produce a reference in support of his position pursuant to M.P.E.P. § 2144.03. If the Examiner is relying on personal knowledge to supply the required motivation or suggestion to modify *Mitchell*, Applicants respectfully request that the Examiner produce an affidavit supporting such facts pursuant to M.P.E.P. § 2144.03.

Figure 3, Figure 4, and column 6, lines 55-59). Specifically, link data 25 is merely a table, separate from the audio file and thus not "within the audio file" as claimed. (*Mitchell*, column 7, lines 13-16). However, link data 25 is stored in volatile memory, and *Mitchell* makes it clear that it is impractical to store the audio file in volatile memory. (*Mitchell*, column 6, lines 30-34). Accordingly, it would not have been obvious to one of ordinary skill in the art to modify the teachings of *Mitchell* to include storing an **electronic marker within the audio file** since it would be impractical to do so and since including electronic markers in the audio file would be superfluous since the table is already stored separately from the audio file.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 1 and 35, together with Claims 2-3 and 5-6 that depend on Claim 1 and Claim 36 that depends on Claim 35.

2. Claims 10-11 and 13-16

Independent Claim 10 of the present Application, as amended, recites:

> A method for relating words in an audio file to words in a text file, comprising:
> retrieving a text file comprising a plurality of textual words;
> converting the plurality of textual words to a plurality of audible words, each audible word comprising media stream packets;
> transmitting the audible words to a telecommunication device associated with a user in real time as the audible words are generated;
> *prior to a playing of the audible words, initializing a counter to identify textual words within the text file;*
> *during the playing of the audible words, incrementing the counter after each audible word is played; and*
> *during the playing of the audible words, determining a current textual word corresponding to the audible word currently being played by identifying the current textual word in the text file using the counter.*

Applicants submit that Claim 10 is allowable over the proposed *Mitchell-Ball* combination because the references do not disclose, teach, or suggest at least the claim elements emphasized above.

Mitchell discloses a speech-to-text system that allows linked data and audio data to be stored for dictated text. (Column 2, lines 56-57). "In this way the audio data is maintained for playback at a later time . . ." (Column 2, lines 57-58). Specifically, "in temporary directory on the disc storage 15, two files are stored by the speech recognition engine application 11 which includes the information illustrated in tabular form in FIG. 3." (Column 6, lines 48-51). "For each period of dictation an audio data file, and a pair of information files are generated containing the information illustrated in FIG. 3." (Column 6, lines 51-53). "Each of the words recognized is identified by an identifier tag which identifies the position in the sequence of word[s]," the identifier tag of *Mitchell* is merely an entry within the "information files [that] are Thus, the two files include the identifier tag and an audio start point and audio endpoint. (Figure 3).

Regarding playback, *Mitchell* discloses that a user can "select a word which is believed to be incorrectly recognized for correction." (Column 9, lines 28-29). "The selected word is then highlighted on the display . . . [and] the speech recognition interface application 12 determines the word location in the text." (Column 9, lines 29-32). "If the word is a dictated word, in step S55 the speech recognition interface application 12 determines the identified tag for the selected word [in the text file] using the link data 25 and the speech recognition output data." (Column 9, lines 37-41). "The audio component is then retrieved from the speech recognition run time created files . . . [and] the audio component is played back via the speech recognition engine application 11." (Column 9, lines 41-46). "[A] user can select an alternative word from the choice list, input a new word, default back to the original word or cancel if the original word is correct or the word was selected for correction in error." (Column 9, lines 50-54). Thus, the system of *Mitchell* identifies an audio word in response to selection of a word in the text file. Rather, the location of the word in the text file is known prior to the playing of the audio file and is used to locate the audio word for the playback. The system of *Mitchell* does not "[initialize] a counter to identify textual words within the text file" prior to a playing of the audible words, as recited in Claim 10. Further, the system of *Mitchell* does not "[increment] the counter after each audible word is played" and "during the playing of the audible words, [determine] a current textual word corresponding to the audible word currently being played by identifying the current textual word in the text file using the counter," as also recited in Claim 10.

The additional disclosure of *Ball* does not cure the deficiencies of *Mitchell* identified above. Rather, *Ball*, which relates to a system for converting voice mail messages to a speech signal. (Column 4, line 66 through Column 5, line 3). Specifically, "a structured message . . . includes a plurality of messaging elements that are formatted with PML markup, or the like." (Column 6, lines 51-55). Regarding playback of a message, *Ball* discloses:

> When the recipient accesses messaging system 104, the message is retrieved from storage and processed in accordance with the embedded instructions with the PML marked-up storage message. The messaging system 104, thus includes an interpreter that is able to interpret the embedded instructions and audibly present the message to the recipient in the manner intended by sender.

(Column 6, lines 56-62). Accordingly, there is no disclosure in *Ball* of "prior to a playing of the audible words, initializing a counter to identify textual words within the text file," "incrementing the counter after each audible word is played," and "during the playing of the audible words, determining a current textual word corresponding to the audible word currently being played by identifying the current textual word in the text file using the counter," as recited in Claim 10.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 10, together with Claims 11 and 13-14 that depend on Claim 10. For analogous reasons, Applicants also request reconsideration and allowance of Claim 15, together with Claim 16 that depends on Claim 15.

3. Claims 7-8, 17, 30, and 32-33

Independent Claim 7, which is rejected over the proposed *Mitchell-Ball-Dionne* combination, has been amended to recite *inter alia*:

> prior to a playing of the audio file, initializing a counter to identify textual words within the text file;
>
> during the playing of the audio file, incrementing the counter after each audible word is played; and

> . . . determining that the textual word corresponds to the audible word by identifying the current textual word in the text file using the counter . . .

Applicants have shown above with respect to Claim 10, however, that neither *Mitchell* nor *Ball* disclose, teach, or suggest the recited claim elements. Accordingly, for reasons analogous to those discussed above with regard to Claim 10 and because *Dionne* does not cure these deficiencies and is merely relied upon for disclosure of the spelling of a word, Applicants respectfully submit that independent Claim 7 is allowable over the proposed *Mitchell-Ball-Dionne* combination.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 7, together with Claim 8 that depends on Claim 7. For analogous reasons, Applicants also request reconsideration and allowance of Claims 30 and 32, together with Claim 33 that depends on Claim 32. Claim 17 depends on Claim 15. Since Claim 17 incorporates the limitations of Claim 15, which Applicants have shown above to be allowable, Applicants have not provided detailed arguments with respect to Claim 17. However, Applicant remains ready to do so if it becomes appropriate. Applicant respectfully requests reconsideration and allowance of Claim 17.

4. Claims 18-29

Independent Claim 18, which is rejected over the proposed *Mitchell-Dionne-Frulla* combination, has been amended to recite "storing the audible word in an audio file, the audio file comprising a plurality of audible words converted from a plurality of textual words and a plurality of electronic markers embedded in the audio file." Applicants have shown above with respect to Claim 1, however, that *Mitchell* does not disclose, teach, or suggest the recited claim elements. Accordingly, for reasons analogous to those discussed above with regard to Claim 1 and because *Dionne* and *Frulla* do not cure these deficiencies, Applicants respectfully submit that independent Claim 18 is allowable over the proposed *Mitchell-Dionne-Frulla* combination.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 18, together with Claims 19-21 that depends on Claim 18. For analogous reasons,

Applicants also request reconsideration and allowance of Claims 22 and 26, together with Claims 23-25 and 27-29 that depend on Claims 22 and 26, respectively.

5. Claim 37

Independent Claim 37, which is rejected over the proposed *Mitchell-Dionne-Frulla* combination, has been amended to recite *inter alia*:

> means for initializing a counter to identify textual words within the text file, the counter initialized prior to a playing of the audible words,;
> means for incrementing the counter after each audible word is played during the playing of the audible file; and
> . . . means for identifying in a text file a textual word corresponding to the audible word in response to the voice command by identifying the current textual word in the text file using the counter

Applicants have shown above with respect to Claim 10, however, that *Mitchell* does not disclose, teach, or suggest the recited claim elements. Accordingly, for reasons analogous to those discussed above with regard to Claim 10 and because *Dionne* and *Frulla* do not cure these deficiencies, Applicants respectfully submit that independent Claim 37 is allowable over the proposed *Mitchell-Dionne-Frulla* combination.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 37.

New Claim 38

New Claim 38 is patentable at least because it depends on Claim 1, which Applicants have shown above to be allowable. Additionally, Claim 38 is patentable because it recites additional features and operation not disclosed, taught, or suggested in the prior art.

For example, the references cited by the Examiner do not disclose, teach, or suggest "removing the electronic markers from the audio file during playback" and "tracking the number of words played by counting the number of electronic markers removed," as recited in new dependent Claim 38. In the *Office Action* and with regard to independent Claim 1, the

Examiner acknowledges that *Mitchell* "does not disclose that the electronic marker is within the audio file." (*Office Action*, page 2). Because *Mitchell* does not disclose "a plurality of electronic markers embedded in the file," it stands that *Mitchell* also cannot be said to disclose, teach, or suggest "removing the electronic markers from the audio file during playback" and "tracking the number of words played by counting the number of electronic markers removed," as recited in amended Claim 1. The disclosure of *Mitchell* is deficient with respect to these claim elements. Since these deficiencies are not cured by *Ball*, *Dionne*, and/or *Frulla*, Applicants respectfully request consideration and allowance of new dependent Claim 38.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorney for Applicants, at the Examiner's convenience at (214) 953-6809.

Applicants believe no fee is due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any required fees or credit any overpayments to Deposit Account No. **02-0384** of **Baker Botts L.L.P.**

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants

Jenni R. Moen
Reg. No. 52,038

Date: December 14, 2007

Correspondence Address:

Customer No. **05073**